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Robert E. Krebs Thelen Reid & Priest LLP P.O. Box 640640 San Jose, CA 95164-0640			EXAMINER ANDRAMUNO, FRANKLIN S	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/898,728  
Filing Date: July 03, 2001  
Appellant(s): RAKIB, SELIM SHLOMO

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Michael J. Ure  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 09/23/08 appealing from the Office action mailed 02/21/08.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

20050028208	Ellis et al	08/26/04
6437836	Huang et al	09/21/98

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

The following ground(s) of rejection are applicable to the appealed claims:

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (Pub No 2005/0028208 A1) in view of Huang et al (Patent No 6,437,836 B1). Hereinafter referred as Ellis and Huang.

Regarding claim 1, Ellis discloses a system comprising: one or more transmission mediums for carrying at least upstream and downstream digital data traffic (Remote Control (254) receives data from Set Top Box (248) and sends data to

**Television (252) in figure 36)**; a headend circuit coupled to all said transmission mediums and containing or coupled to one or more server computers and/or other circuits to provide at least digital data services to a plurality of customers (**The headend authorizes the user's set-top to view the ordered program using conventional signal denial or signal scrambling systems [page 1 paragraph (0007) lines 6-9]**); one or more local area networks and/or dedicated LAN segments (**Network Node Server (256) in figure 33b**) or data paths at each customer premises; one or more peripheral devices at each customer premises coupled to said one or more local area networks and/or dedicated LAN segments or dedicated data paths (**User Television Equipment (244) in figure 33b**), said one or more peripheral devices including a non-television component (**Personal Computer, Notebook Computer, Palmtop, PDA Display remote, etc in figure 5**); a plurality of gateway means at customer premises locations and coupled to all said transmission mediums and coupled to said one or more local area networks (**Set Top Box (248) in figure 36**), for receiving, demodulating and detecting digital data transmitted to one or more of said peripherals from said headend circuit and to packetize and route said data to the appropriate peripheral device via said one or more local area networks or one or more ports directly connected by dedicated lines or LAN segments to one or more peripherals (**Television Distribution facility (E.G., Cable System Headend, Satellite System, etc (16) in figure 2a**), and for managing traffic and bandwidth and rate shaping if necessary to match the data rate of data to be transmitted over a data path to the available bandwidth on that data path [**page 11 paragraph (0126)**]); and a remote control means

at one or more customer premises and, at each premises, coupled by wireless digital data communication circuitry to said gateway or to said gateway through a peripheral device (**Remote program guide access device (24) may be any suitable personal computer (PC), PDA, or other suitable computer based device [page 7 paragraph (0092) lines 2-11]**), for issuing commands to said headend circuit through said gateway and one or more transmission mediums to provide data to said one or more peripherals through said one or more transmission mediums and said gateway. **Ellis fails to show explicitly that** the remote control can control the EPG and the data upstream and downstream. Huang discloses in figure 1A the use of a palm pilot as a remote control to access and receive instructions from the set top box.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Ellis' reference to include a pda remote control to receive and access instructions from the STB. This is a useful combination because it allows the use of current Personal Digital Assistants, including recording and playing back instructions of TV programming.

Regarding claim 2, Ellis discloses the apparatus of claim 1 wherein said wireless digital data communication circuitry is a digital data transceiver and wherein said remote control means (**Remote access link (19) may be any suitable wired or wireless communications path or paths over high digital or analog communications may take place between interactive television program guide equipment (17) [page 5 paragraph (0077) lines 9-13]**) includes a display and audio data playing circuitry (**Remote program guide access device (24) may play the video or audio for the**

**user [page 12 paragraph (0134) lines 10-13])** and further includes means for decompressing compressed video and/or audio data received by said transceiver and displaying the decompressed video image data and for playing decompressed audio data **(Interactive television program guides allow the user to navigate through television program listing using a remote control. In a typical program guide, various groups of television program listings are displayed in a predefined or user-defined categories [page 1 paragraph (0004) lines 1-5])**, and further comprising means for receiving and displaying internet protocol packet data defining web pages, graphics, e-mail and other data that is received from the internet **(Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4])**.

Regarding claim 3, Ellis discloses a system comprising: one or more transmission mediums for carrying at least upstream and downstream digital data traffic **(Remote Control (254) receives data from Set Top Box (248) and sends data to Television (252) in figure 36)**; a headend circuit coupled to all said transmission mediums and containing or coupled to one or more server computers and/or other circuits to provide at least digital data services to a plurality of customers **(The headend authorizes the user's set-top to view the ordered program using conventional signal denial or signal scrambling systems [page 1 paragraph (0007) lines 6-9])**, and including rate shaping circuitry to alter the data rate of data transmitted on or received from said transmission mediums **(Control Circuitry (42) may also send data**

**and commands or requests back to television distribution facility (16) [page 7 paragraph (0044) lines 5-8]]**; one or more local area networks or digital data buses at each customer premises (**Network Node Server (256) in figure 33b**); one or more peripheral devices including at least one non-television component (**Personal Computer, Notebook Computer, Palmtop, PDA Display remote, etc in figure 5**) at each customer premises coupled to said one or more local area networks or buses; at least one cable modem at each customer premises location (**User Television Equipment (244) in figure 33b**), said cable modem coupled to all said transmission mediums and coupled to said one or more peripherals via said local area networks or buses (**Set Top Box (248) in figure 36 see also [paragraph (0076) and (0086)]**); and a remote control coupled to said headend through said cable modem or coupled to said headend through one or more of said peripherals coupled to said cable modem for issuing wireless commands that get routed by said cable modem to said headend to invoke services provided by said headend circuit (**Remote program guide access device (24) may be any suitable personal computer (PC), PDA, or other suitable computer based device [page 7 paragraph (0092) lines 2-11]**).

Regarding claim 4, Ellis discloses the apparatus of claim 3 wherein said cable modem includes rate shaping circuitry to modify the data rate of data transmitted on said one or more local area networks (**Control Circuitry (42) may also send data and commands or requests back to television distribution facility (16) [page 7 paragraph (0044) lines 5-8]]**), and wherein said remote control each includes a transceiver for receiving infrared or radio frequency (**Control path (34) involves the**



**use of an infrared transmitter coupled to the infrared receiver in the videocassette recorder that normally accepts commands from a remote control such as remote control (40) [page 6 paragraph (0081) lines 8-13])** transmissions of digital internet protocol packet data and/or compressed video and/or audio data and decompression/conversion circuitry for decompressing any compressed video and/or audio data and converting said decompressed video and/or audio data and internet protocol packet data to signals or data that can be displayed and/or played and display circuitry for displaying **(Interactive television program guides allow the user to navigate through television program listing using a remote control. In a typical program guide, various groups of television program listings are displayed in a predefined or user-defined categories [page 1 paragraph (0004) lines 1-5])** said converted internet protocol packet data and/or converted decompressed video data and includes a speaker and/or headphone jack for playing and/or outputting analog sound data **(Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4]).**

Regarding claim 5, Ellis discloses a system comprising: a satellite dish for receiving downstream digital video data traffic at each customer premises location **(Remote Control (254) receives data from Set Top Box (248) and sends data to Television (252) in figure 36)**; a conventional telephone line at each customer premises location and routed to a central office headend, for carrying low speed internet

protocol digital data traffic both upstream and downstreamn (**Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4];** a digital video headend circuit coupled to one or more video and/or other servers to transmit digital video and other data implementing one or more services to one or more satellites for retransmission to the satellite dishes at each customer premises location (**Television Distribution Facility (E.G. Cable System Headend, Satellite System, etc in figure 2a);** a central office headend server coupled to each of said telephone lines for implementing the bidirectional transmission of internet protocol data packets to and from said customer premises and servers on the internet (**Remote program guide access device (24) and interactive television program guide equipment (17) may communicate, for example, using a protocol stack which includes Sequenced Packet Exchange/Internetwork Packet Exchange [page 7 paragraph (0095) lines 4-12];** one or more local area networks at each customer premises; one or more peripheral devices including at least one non-television component (**Personal Computer, Notebook Computer, Palmtop, PDA Display remote, etc in figure 5)** at each customer premises coupled to said one or more local area networks (**User Television Equipment (413) in figure 33b);** a plurality of gateways, at least one at each customer premises locations, each gateway coupled to a satellite dish (**Network Node (Server (256) in figure 33b)** and to a conventional telephone line and coupled to said one or more local area networks and functioning to extract digital video and other

data transmitted to one or more of said peripherals from said digital video headend and/or said central office headend server and to route said data to the appropriate peripheral device via said one or more local area networks (**Link (18) may be a satellite link, a telephone network link, a cable or fiber optic link [page 4 paragraph (0066) lines 9-12]**); and a remote control means at each customer premises coupled by wireless digital data communication circuitry to said gateway or to said gateway through a peripheral device, for issuing commands to said digital video headend circuit and to said central office headend server through said gateway and one or more conventional telephone lines to provide data to said one or more peripherals through said satellite dish and/or a conventional telephone line and said gateway and local area network (**Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4]**).

Regarding claim 6, Ellis discloses a system comprising: a satellite dish for receiving downstream digital video data traffic at each customer premises location (**Remote Control (254) receives data from Set Top Box (248) and sends data to Television (252) in figure 36**); a cable television hybrid fiber coaxial cable network (hereafter HFC network) for carrying analog television broadcast signals and high speed internet protocol digital data traffic both upstream and downstream (**Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a**

**computer network or Internet link [page 7 paragraph (0094) lines 1-4]]**; a digital video headend circuit coupled to one or more video and/or other servers to transmit digital video and other data implementing one or more services to one or more satellites for retransmission to the satellite dishes at each customer premises location; a cable television headend circuit coupled to each of servers for implementing the bidirectional transmission of data packets to and from said customer premises and servers on the internet and for implementing bidirectional transmission of data packets from said servers to said customer premises implementing other services (**Preferably remote access link (19) is bidirectional [page 7 paragraph (0094) lines 16-18]]**); one or more local area networks at each customer premises (**Network Node Server (256) in figure 33b**); one or more peripheral devices including at least one non-television component (**Personal Computer, Notebook Computer, Palmtop, PDA Display remote, etc in figure 5**) at each customer premises coupled to said one or more local area networks; a plurality of gateways, at least one at each customer premises locations (**User Television Equipment (413) in figure 33d**), each gateway coupled to a satellite dish and having a cable modem included therein to couple said gateway to said HFC network (**Television Distribution Network (238) in figure 33b**) and coupled to said one or more local area networks and functioning to extract digital video and other data transmitted to one or more of said peripherals from said digital video headend circuit and/or said cable television headend circuit and to route said data in the appropriate format to the appropriate peripheral device via said one or more local area networks (**Network Node Server (256) in figure 33b**); and a remote control means at each

customer premises coupled by wireless digital data communication circuitry to said gateway or to said gateway through a peripheral device (**Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4]],** for issuing commands to said cable television headend circuit through said gateway and said HFC network to provide data to said one or more peripherals through said HFC network and said gateway and local area network (**Server (410) in figure 33d**).

Regarding claim 7, Ellis discloses the system of FIG. 6 wherein said gateway has a conventional modem therein which interfaces said gateway to said digital video headend circuit through said remote control means and a telephone line circuit of the public service telephone network (**Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4]]** for purposes of ordering pay-per-view events for viewing on one or more of said peripherals (**The remote access program guide may also provide a user with an opportunity to remotely order pay-per-view programs and packages [page 12 paragraph (0130) lines 1-3]].**

Regarding claim 8, Ellis discloses a system comprising: a plurality of satellite dishes for receiving downstream digital video data traffic, each satellite dish at a customer premises (**Remote Control (254) receives data from Set Top Box (248) and sends data to Television (252) in figure 36**); a digital video headend circuit

coupled to one or more video servers for transmitting digital video broadcast data to said plurality of satellite dishes via an uplink, a satellite and a downlink; a plurality of conventional telephone lines, each routed to a customer premises and each for carrying low speed internet protocol digital data traffic both upstream and downstream (**Remote program guide access device (24) and interactive television program guide equipment (17) may communicate, for example, using a protocol stack which includes Sequenced Packet Exchange/Internetwork Packet Exchange [page 7 paragraph (0095) lines 4-12]**); a plurality of gateway means, each at a customer premises and coupled to at least one of said telephone lines and at least one of said satellite dishes (**Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4]**); a central office server coupled to the internet and to said conventional telephone lines to provide bidirectional internet protocol data transfers between each said gateway and servers on the internet via a conventional telephone line (**Link (18) may be a satellite link, a telephone network link, a cable or fiber optic link, a microwave link, a combination of such links, an Internet link, or any other suitable communication path [page 4 paragraph (0066) lines 8-13]**); one or more conventional analog televisions at each customer premises coupled to said gateway via audio and video lines (**User Television Equipment (1) (2) (3) in figure 31**) one or more non-television components at each customer premises coupled to said gateway by way of a local area network (**Personal Computer, Notebook Computer,**

**Palmtop, PDA Display remote, etc in figure 5)**; a remote control at each customer premises, and coupled by wireless digital data communication circuitry to said gateway or to said gateway through a peripheral device, for at least sending data and commands to said central office internet server through said gateway and a conventional telephone line to cause bidirectional data transfers between said gateway and said internet server **(Preferably remote access link (19) is bidirectional [page 7 paragraph (0094) lines 16-18])**; each said gateway means for receiving compressed digital video broadcast data and for wireless receiving commands from said remote control, and for coordinating use of said remote control and said conventional analog television like a computer keyboard and display **(User interface (46) may be a pointing device, wireless remote control, keyboard, touch pad, etc [page 7 paragraph (0089) lines 1-5])**, respectively, for sending and receiving internet protocol data over a conventional telephone line so as to enable use of said television and remote control and gateway like a personal computer to display web pages and/or e-mail **(Reminders may be sent as e-mail messages from the interactive television program guide to remote program guide access device (24) [page 10 paragraph (0119) lines 1-3])**, and for routing said compressed digital video data to a hard disk for recording or to a decompression and conversion circuit for processing for display on said television(s) or both **(Remote access link (19) in figure 1 may include any suitable transmission medium. Link (19) may include, for example, a serial or parallel cable, a dial-up telephone line, a computer network or Internet link [page 7 paragraph (0094) lines 1-4])**.

Regarding claim 9, Ellis discloses the apparatus of claim 8 wherein said remote control includes a display and a transceiver to receive compressed digital video broadcast data and decompression and conversion circuitry to buffer frames of said data and decompress said compressed digital video data and convert it to YUV or other format uncompressed video data that can be displayed on said display **(If the programming is stored on storage (56), it may be transmitted to remote program guide access device (24) in any suitable format, and may be converted to a digital format by a suitable analog to digital converted in remote program guide access device (24) [page 11 paragraph (0127) lines 18-25])**.

Although Ellis fails to specifically teach the use of satellite dishes as required in the independent claims, Huang et al does note in col 3 lines 25-30 that satellite mediums are well known. Therefore, it would be obvious to use a dish to receive TV signals as another well known medium to allow for more entertainment.

#### **(10) Response to Argument**

On page 19, first paragraph of the brief, the appellant states, "Ellis does not teach or suggest a remote control means at one or more customer premises ... coupled by wireless digital data communication circuitry to said gateway." Examiner notes that (figure 2b) shows link (19) between the remote program guide access device (24) and communications device (27). Moreover, figure 3 shows the relationship between a remote control (40) with link (19) and communications device (37). (Page 6 paragraph (0086) lines 1-15) Ellis discloses that communications device (37) maybe, for example,



a communications port, modem, network interface card, wireless transceiver, or other suitable communications device. Therefore, Ellis shows how one customer premise is capable of accessing remote data through a wireless communication device.

Also on page 19, second paragraph of the brief, the appellant states, "there is no teaching or suggestion of the remote program guide access device issuing commands to the headend circuit through said gateway [located at the customer premises] and one or more transmission mediums to provide data to said one or more peripherals through said one or more transmission mediums and said gateway." Examiner does not agree. Ellis teaches on (page 12 paragraph (0130) lines 9-13) in response to the user command, remote program guide access device (24) may obtain pay-per-view information from the interactive television program guide running on interactive television program guide equipment (17), via remote access link (19). It should also be noted that Ellis discloses in (figure 33b) each user television equipment (244) is connected to a remote user television equipment through the network node server (256).

In addition, on page 19, third paragraph of the brief, the appellant states, "Huang in no way remedies the foregoing deficiencies of Ellis with respect to claim 1. Page 19 fifth paragraph, the appellant states similar features to those discussed in relation to claim 1 are found in each independent claims 3, 5, 6, and 8 and cause these claims to also patentably define over the cited references. Examiner does not agree. It should be noted that Ellis does show the teachings described in the above paragraph.

Furthermore, on page 20, first paragraph of the brief, the appellant states, "in claim 3, a remote control is coupled through a cable modem for issuing wireless commands that get routed by the cable modem to a headend circuit to invoke services provided by the same." Examiner does not agree. Ellis teaches in (step (1205) of figure 14) the exchange of one or more commands. This is done to establish remote access link between the remote access interactive television program guide and the local interactive program guide to exchange one or more remote access communications between the program guide. Appellant also argues, "Ellis Fig. 2b (indirect connection), commands are not routed by the user television equipment 22 (in the manner of a gateway, for sake of argument) to the headend as claimed. Rather, the remote program guide access device bypasses the customer premises, communicating instead with the television distribution facility 16, which in turn communicates with customer premises equipment to perform the kind of synchronization previously mentioned." Examiner again does not agree. It should be noted that on (figure 29) each of the secondary user television equipment (261), (262), and (263) are connected to the primary user television equipment (260). Therefore, this shows the remote access device necessarily connects to a master sever (260) in order to communicate with another customer premise.

Also, on page 20, second paragraph of the brief, the appellant states, "In claim 5, a remote control is coupled through a gateway for issuing commands through the gateway to a headend circuit and to a central office headend server to command data to be provided to one or more peripherals." Examiner does not agree. Ellis shows on

(Figure 31) that each user television equipment must connect to the server (80) in order to communicate with each other.

It should be noted that on page 20, third paragraph of the brief, the appellant states the same paragraph as the one in paragraph second of page 20.

Finally, on page 21, first paragraph of the brief, the appellant states, "in claim 8, a remote control is coupled through a gateway for sending commands through the gateway to a central office internet server to cause bidirectional data to be exchanged between the central office internet service and the gateway." Examiner again does not agree. Ellis shows in (page 7 paragraph (0094) lines 16-18) preferably remote access link (19) is bidirectional.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Franklin Andramuno

/F.A./

Conferees:

/Chris Kelley/

Supervisory Patent Examiner, Art Unit 2424

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